

IMPORTANT REMINDERS & DEADLINES

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain documentation of your monitoring of the progress toward your stated goals.

CHILDREN'S INTERNET PROTECTION ACT (CIPA) - If FY2003 is your Third Funding Year for the purposes of CIPA and you apply for Internet Access or Internal Connections, you must be in compliance with CIPA and cannot request a waiver. The Supreme Court may issue an opinion in July 2003 changing the CIPA requirements - watch the SLD web site.

INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

RETAIN DOCUMENTATION - Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information is posted to the Schools and Libraries Division (SLD) web site at www.sl.universalservice.org. Information is also available by contacting the SLD Client Service Bureau by e-mail at question@universalservice.org, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

June 23, 2003

FLORIDA INFORMATION RESOURCE NETWORK
MELINDA CROWLEY
325 WEST GAINES ST., Suite 1101
TALLAHASSEE, FL 32399

Re: Form 471 Application Number: 338600
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 167435
Applicant's Form Identifier: FIRN-03-01

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$7,422,361.98 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision Letter (ECDL) you are appealing. Indicate the relevant funding year and the date of the ECDL. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the funding synopsis that is at the heart of your appeal, to allow the SLD to more readily understand and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options to expedite filing your appeal.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of continued substantial delays in mail delivery to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the SLD and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 338600
Funding Request Number: 985813 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143007886 Service Provider Name: Hayes E-Government Resources, Inc
Contract Number: 02-STO-ITN-003
Billing Account Number: FIRM
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2008
Annual Pre-discount Amount for Eligible Recurring Charges: \$10,754,638.20
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$160,600.00
Pre-discount Amount: \$10,915,238.20
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

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Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

June 23, 2003

FLORIDA INFORMATION RESOURCE NETWORK
MELINDA CROWLEY
325 WEST GAINES ST., Suite 1101
TALLAHASSEE, FL 32399

Re: Form 471 Application Number: 352390
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 167435
Applicant's Form Identifier: FIRN-03-03

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$7,908.00 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

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- Review CIPA Requirements
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Decision Letter (FCDL) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

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Schools and Libraries Division
Universal Service Administrative Company

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CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 352390
Funding Request Number: 991115 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143007886 Service Provider Name: Hayes E-Government Resources, Inc
Contract Number: 02-STO-ITN-003
Billing Account Number: FIRM
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2008
Annual Pre-discount Amount for Eligible Recurring Charges: \$39,540.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$39,540.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

FLORIDA DEPARTMENT OF EDUCATION



STATE BOARD OF EDUCATION

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T. WILLARD FAIR, *Vice Chairman*

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WILLIAM L. PROCTOR, PH.D.

JIM HORNE
Commissioner of Education



August 21, 2003

George McDonald, CEO
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981


Dear Mr. McDonald:

Thank you for the opportunity to provide additional information on the Florida Department of Education's E-rate applications for the 2003-2004 funding year. Enclosed herein are three appeals addressing three separate Funding Request Numbers that were denied through Selective Review. What follows is an overview the denial of these e-rate appeals will have on the students of the State of Florida.

Each year, the Florida Legislature appropriates sufficient funds to operate the Florida Information Resource Network for the current fiscal year. With the availability of over 7.4 million dollars in e-rate discounts, the Department is able to provide internet access to every student for less than \$1.25 per student per year. With this internet access over 3700 schools have access to many digital resources as well as the Florida Virtual School. Secure access is vitally important to our financial aid programs and reporting requirements. Without this internet connectivity the use of data-driven decision making as an effective tool for school districts and state leadership will be degraded.

Without this e-rate funding, many of these 3700 schools will be unable to fund internet access for the remainder of the year because of budgetary constraints. Those schools will be forced to "disconnect" from the internet and lose a valuable educational tool which is an integral part of the instructional programs for Florida students. Such schools will remain off-line until additional funding is secured. Therefore, we would ask that you expeditiously consider a favorable resolution of these pending appeals.

Sincerely,


Jim Horne, Commissioner
Florida Department of Education

JH:JF:mak

Enclosure

FLORIDA DEPARTMENT OF EDUCATION



STATE BOARD OF EDUCATION

F. PHILIP HANDY, *Chairman*

T. WILLARD FAIR, *Vice Chairman*

Members

SALLY BRADSHAW

LINDA J. EADS, ED.D.

CHARLES PATRICK GARCIA

JULIA L. JOHNSON

WILLIAM L. PROCTOR, PH.D.

August 21, 2003

Letter of Appeal to the
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

JIM HORNE
Commissioner of Education



VIA FEDERAL EXPRESS

Contact Information: Melinda Crowley
Chief, Office of Educational Technology
1101 Turlington Building
325 West Gaines Street
Tallahassee, FL 32399-0400
Telephone: 850-245-0514
Fax: 850-245-9327
Melinda.Crowley@fldoe.org

*Can we elim. all lower
bidders as non-
responsive?*

SLD Action Appealed: Funding Commitment Decision—Denial by SLD
Form 471 Application Number: 338600
Funding Year 07/01/2003 – 06/30/2004
Billed Entity Number 167435
Date of Letter of Denial – 06/23/2003

This is an appeal of the Universal Service Administration Company, Schools & Libraries Division's (SLD) denial of the Florida Information Resource Network's (FIRN) Funding Year 2003 E-rate application. FIRN is administered by the Florida Department of Education (DOE).¹ The Funding Commitment Decision Letter dated June 23, 2003 contained the following Funding Commitment Decision Explanation: "Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal." As explained below, the Department believes SLD's decision was made in error based on an incorrect assumption regarding the Department's evaluation criteria. Both the Invitation to Negotiate (ITN) at issue and state procurement law mandate that price be the primary factor in DOE's selection of the successful vendor. Therefore, we appreciate this opportunity to explain how state procurement law ensures compliance with Federal Communications Commission (FCC) requirements and demonstrate how, in fact, DOE's selection process used price as the primary factor

¹ The State Technology Office (STO) has primary responsibility and accountability for the planning, budgeting, acquisition, development, implementation, use, and management of information technology within the state. Section 282.005(5), Florida Statutes. DOE and the STO collaborated on the procurement of Bundled Internet Access Services.

FCC Rules

The Commission's rules generally require schools to seek competitive bids on the services for which they seek a discount.² In addition, section 54.511 states that schools shall "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers." The Commission has explained that the competitive bid requirements give schools maximum flexibility to take service quality into account and to choose the offering . . . that meets their needs 'most effectively and efficiently,' but noted that price should be the "primary factor" in selecting a bid.³ In elaborating on this requirement, the Commission recited the Joint Board's recommendation on Internet Access that schools and libraries have to select the most cost-effective supplier of access. In determining whether an offering is cost-effective, the Commission has listed such factors as "prior experience, personnel qualifications, including technical excellence, and management capability, including schedule compliance." The Commission has stated that "schools and libraries are not required to select the lowest bids offered, although the Commission stated that price should be the 'primary factor.'"⁴

The Commission has also stated that "we can generally rely on local and/or state procurement processes that include a competitive bid requirement as a means to ensure compliance with our competitive bid requirements [because] state and/or local procurement rules and practices will generally consider price to be a primary factor, and select the most cost-effective bid."⁵ The Commission went on to state that schools generally have an incentive to select the most cost-effective bid, even apart from any procurement requirements, because they must pay their pro rata share of the cost of the services requested. The Commission found that absent evidence to the contrary in a particular case, this incentive is generally sufficient to support a conclusion that a school has selected the most cost-effective bid for requested services.⁶

² 47 C.F.R. § 54.504

³ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 481 (1997) (Universal Service Order), as corrected by Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), affirmed in part, Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393 (5th Cir. 1999) (affirming Universal Service Order in part and reversing and remanding on unrelated grounds), cert. denied, Celpage, Inc. v. FCC, 120 S. Ct. 2212 (May 30, 2000), cert. denied, AT&T Corp. v. Cincinnati Bell Tel. Co., 120 S. Ct. 2237 (June 5, 2000), cert. dismissed, GTE Service Corp. v. FCC, 121 S. Ct. 423 (November 2, 2000).

⁴ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318, 5442, para. 192 (1998) (Fourth Reconsideration Order).

⁵ Request for Review by the Department of Education of the State of Tennessee of the Decision of the Universal Service Administrator, Request for Review by Integrated Systems and Internet Solutions, Inc., of the Decision of the Universal Service Administrator, Request for Review by Education Networks of America of the Decision of the Universal Service Administrator, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, Order, 14 FCC Rcd 13734, para. 10 (1999) (Tennessee Order).

⁶ Id.

Indeed, in reviewing competitive bidding processes involved in E-rate funding, the Commission has given great deference to state procurement laws with the understanding that such laws typically require cost-effective evaluations. This is no more apparent than in the *Tennessee Order* in which the Commission upheld the Tennessee Department of Education's competitive bidding process that followed the Tennessee procurement laws, finding that "Tennessee law states that procurement regulations 'shall require: (1) [t]o the greatest practicable extent, evaluation and consideration of . . . cost in the awarding of contracts.'" ⁷

This appeal will demonstrate that, much like Tennessee law, Florida procurement law requires that the Department obtain the "best value" for the state, that the ITN indicated that the Department is seeking a state-of-the-art, cost-effective solution, and that during the selection process, price was the primary factor used to evaluate the bids.

Florida Procurement Law

Chapter 287 Florida Statutes governs the State of Florida's procurement process. Section 287.001, Florida Statutes, sets forth the requirements of fair and open competition and that contracts are to be awarded equitably and economically. One way in which the state ensures that contracts are awarded economically is through an invitation to negotiate (ITN.) Section 287.057(3), Florida Statutes, sets out the requirements for an ITN. An ITN is process whereby commodities and contractual services are procured by competitive sealed replies. Under the ITN process, the state is statutorily required to competitively select the bidder which "will provide the best value to the state." State procurement law, section 287.012(4), defines "best value" to mean "the highest overall value to the state based on objective factors to include, but not limited to price, quality, design, and workmanship." ⁸

Section 287.057(3)(a), Florida Statutes, states that the agency must make a written determination that specifies the reasons and explains why negotiation may be necessary in order for the state to achieve the best value. That determination was made in 2002, wherein the department determined that:

Due to the complexity of the services requested, the scope of work cannot be accurately and completely defined. Moreover, due to the nature of the services, information technology, the services can be provided in several different ways, any of which could be acceptable. Consequently, the Department has determined that an Invitation to Negotiate is necessary to achieve the best value for the state. ⁹

Upon completion of the competitive procurement process, Section 287.057(3)(b), Florida Statutes, requires that:

After negotiations are conducted, the agency shall award the contract to the responsible and responsive vendor that the agency determines will provide the best value to the state. The contract file must contain a short plain statement that

⁷ *Id.*

⁸ The Department maintains that "cost effective" and "best value" are analogous. See *infra* fn. 5.

⁹ Attachment 2

explains the basis for vendor selection and that sets forth the vendor's deliverables and price, pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the state.¹⁰

Entirely consistent with the Commission's competitive procurement requirement for E-rate, Florida law requires that the sole criteria for awarding a contract competitively procured through an invitation to negotiate is whether the bidder will provide the "best value" to the state. This is precisely what the FCC envisioned when it stated that "we can generally rely on local and/or state procurement processes that include a competitive bid requirement as a means to ensure compliance with our competitive bid requirements."¹¹ Florida law requires that price be a necessary factor but, like the Commission, recognizes that value encompasses more than simply "price."

Invitation to Negotiate – Bundled Internet Access Services

The ITN was in compliance with state procurement law and consequently in compliance with Federal requirements. The ITN provides that "DOE is seeking a state-of-the-art, **cost-effective** solution to keep pace with the growing need of telecommunication and web services for all of Florida's public e-rate eligible sites (schools, libraries, etc.)."¹² In particular, Tab C – Pricing, states that "[p]ricing will be based on bundled services of Internet access and related services needed to connect each site to the internet."¹³

To ensure there was a level playing field for prospective providers the ITN asked providers to price components based on a hypothetical cost model for uniform pricing. Under the cost model, a list of service levels for various locations across the state was identified. These services were an approximation of the level of bandwidth that would be needed in various parts of the state. In this pricing, as directed by the ITN, the respondents were to include all elements that would constitute "quality of service".

The mandate of finding a cost-effective solution is evidenced by the ITN's evaluation criteria, which required that the majority of the points available be allocated to Overall Project Concept, Design and Cost. This category is comprised of the offeror's concept, approach, design and projected cost to all portions of this project. More precisely it is the offeror's concept, approach, design, *as it relates to cost* to all portions of this project. (Emphasis added.) Section B of the evaluation criteria further elaborated on this component by allocating points to the following subcategories:

1. The proposal defines and details support requirements of 24/7/365 for the NOC, 16/7/365 for Help Desk, e-mail database support and security against hackers, viruses and other threats. Points (0-10).
2. The proposal indicates how it would maximize existing SUNCOM infrastructure in the network design. An important part of the migration is to

¹⁰ Attachment 3

¹¹ See *infra* fn. 5.

¹² Attachment 6

¹³ *Id.*

minimize costs; avoiding paying for two networks during the initial phase. Does the proposal define a strategy to minimize duplicity of service costs before cutting over to the new design and does it identify bundled access components. Points (0-10).

3. The proposal defines specific operational reporting plans, including security on the network. Points (0-5).
4. The proposal should give evidence of a quality design (through a schematic/diagram of the platforms, systems, topologies, protocols, and other technical details required in implementing the services.) Points (0-5).
5. The proposal defines a plan to provide email services to teachers and students. Points (0-3).
6. The proposal defines a plan to provide management and end user support for all internet access including local dial access and 800 number dialup services. Points (0-2).

These short statements were only intended to paraphrase the contents of the ITN so that evaluators would know where to look in the ITN and the corresponding proposals for the relevant information. These subcategories were never meant, nor were they used to constrain the information the evaluators considered. Not only was cost the prime concern in the Overall Project Concept, Design and Cost, but cost was also a prime concern in other areas of the evaluation as evidenced in the affidavit attached to this document.¹⁴

For example: Item number 5 above states that within the proposal there should be a plan to provide email service to teachers and students. The email service was omitted in one of the proposer's responses. That proposer had a significantly lower cost than two other proposers, but rightly so, since the two other proposers included email services within their pricing. As you can see on the attached evaluation sheet the evaluators rated this company very low.¹⁵ In another example, one proposer who had a significantly lower cost than the other three proposers, had a statement within its cost proposal that stated:

Based on the amount of aggregate bandwidth requested by the state in Attachment III, Procurement Cost Model an assumption of approximately 4,253 locations and 1,000,000 end-users. This assumption includes 3,686 schools, 500 libraries (based on the assumption of multiple libraries per county), 28 Private Universities, 28 Community Colleges, and 11 State Universities; and

All Pricing is based upon the above assumption and that all locations will be installed on the network. Pricing is subject to change should the number of total circuits and or time frame change.

- In this proposal the lower pricing was contingent upon capturing all schools libraries and post secondary institution business in the state. The ITN only referenced school districts in the cost model not individual schools, libraries or postsecondary institutions as candidates to receive

¹⁴ Attachment 1

¹⁵ Attachment 4

service. Therefore the proposer itself stated its cost offerings were not in keeping with the requirements of the costing model provided in the ITN.

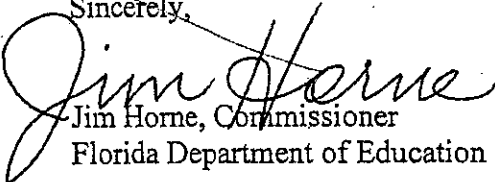
The evaluators were instructed to look at the cost model that was submitted and determine if all the elements in "Section B" of the evaluation criteria were included in the cost proposals that were submitted by the respondents. If the elements were not present in the process then it would be assumed that the STO would have to provide the services incurring greater costs to the state. In other words, if a proposal did not include a required element from Section B, then that proposal's price did not represent the total cost the state would incur if it selected that bidder. Each of the elements were to be evaluated "high" if it was described as defined in the ITN or "low" if the elements were not present as defined in the ITN. Therefore, the result of the evaluation in "Section B" produced the most cost-effective solution for the state. These scores did not differ greatly except in the case of one respondent who did not include most of the elements that were identified in the ITN.

As explained above, not only did their cost proposal have to minimize cost, it had to do so by maintaining a high level of service. The evaluators considered these competing goals by evaluating the effect cost had on the proposers quality of design, the services offered, support services, maximization of the existing network, and operational reporting plans.

Conclusion

State procurement law and the ITN, required the Department to select the best value for the state. The evaluation process, as evidenced in Attachments 1 and 4, clearly and convincingly show that the Department fulfilled this mandate in the application of the evaluation criteria. Consequently, when the Department determined that Hayes would provide the best value to the state, it selected the most cost-effective provider of the desired services. Therefore, the Department urges the SLD to render a decision in favor of its application.

Sincerely,


Jim Horne, Commissioner
Florida Department of Education

JH:JF:mak

Support Documents Attached Include:

- Attachment 1: Affidavit of Evaluator Melinda Crowley
- Attachment 2: Memorandum to Larry Wood
- Attachment 3: Memorandum to procurement file
- Attachment 4: Evaluation Criteria
- Attachment 5: Instructions to Evaluation Team
- Attachment 6: Relevant Portions of ITN

AFFIDAVIT

Before me, this day personally appeared Melinda Crowley who, after first being duly sworn, deposes and says:

That I, Mrs. Melinda Crowley, am employed by the Florida Department of Education as the Chief of Education Technology and was an evaluator of the Invitation to Negotiate Bundled Internet Access Services.

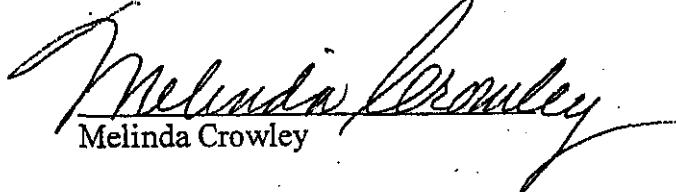
I would like to make the following statements in connection with this procurement:

- A seven member team was gathered together and issued a copy of each of the four proposals. The seven member team was composed of 3 individuals from the Department of Education and 4 individuals from the State Technology Office, agencies of the Governor's office.
- A description of the assignment at hand was verbally given to the team members. This description was a definition of what an ITN is and statements to support the entire process.
- The instructions to the members of the team were as follows:
 - Each member was given a copy of the ITN and instructed to use the ITN to evaluate the elements in all of the proposals. Each proposal was to be evaluated based upon the most-cost effective proposal as required by state law.
 - The evaluators were told that this ITN contained a cost model instead of definitive services. Further, since many of the respondents were in some way associated with prior services to FIRN, it was described how the model was a better equalizer for the respondents.
 - The cost model and the contents of the proposal as it related to the offerings of the company was to be evaluated with a number system as assigned on the evaluation sheet. The ITN was to be the guiding principal as to the requirements of what elements should be in the proposal.
 - Attention was give to the statements under each section. The evaluators were told that issues in the ITN were paraphrased under each section for better coordination between ITN and Evaluation sheet.
 - An overview of the evaluation sheet, specifically sections "B" and "C", was delivered with instructions to use the cost model and the contents to determine which was the best proposal. This was further described as "award a lower number in this area if the information was not present in the proposal and a higher number if the information was present" It was further explained that "section C" this was an area of importance to determine that the "quality of service" could be tracked after the implementation of the services. Therefore, "a view" provided by the vendor for the STO to observe sustaining levels of service and response

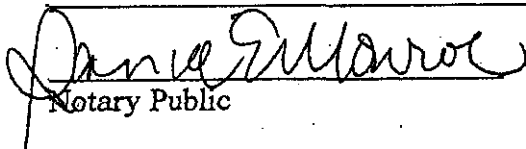
times on customer tickets was extremely important as this view allowed STO to enforce the Service Level Agreements in the contract.

- Other sections of the evaluation sheet were identified as other elements within the ITN (i.e. not the cost model) that needed review into the business experience, qualifications, etc.
- Clarification questions were answered as each section was reviewed.
- Instructions were given to each of the seven evaluators to not communicate with other members of the team, people in their offices, or vendors during the process of the evaluation.
- Instruction were given to send an e-mail with any questions to the STO purchasing department to be answered. Any questions and answers would be sent to all of the team members.
- The evaluators were told they had three days to complete the evaluation process.
- Each evaluator was to return the evaluation sheet to the STO purchasing office.
- The evaluation team was informed that the proposals would be ranked and negotiations would begin with the highest ranked proposer on December 12, 2002.
- In the negotiation phase the vendor had an opportunity to work out any issues that was not present in the proposal including improving pricing. If an impasse would result during the negotiations, the STO and the DOE had the right to begin negotiations with the next highest ranked proposer.

FURTHER AFFIANT SAYETH NOT.


Melinda Crowley

Sworn to and subscribed before me this 11th day of July, 2003
by Melinda Crowley who is personally known or who produced
as identification.


Notary Public

(SEAL)

My Commission Expires 9/12/03





CHARLIE CRIST
COMMISSIONER

FLORIDA DEPARTMENT OF EDUCATION

ATTACHMENT 2

November 1, 2002

TO: Larry D. Wood, Ph.D.
Chief Operating Officer

FROM: Gwen Rittman *GR*
Purchasing Supervisor

RE: Request for approval to proceed with Invitation to
Negotiate for replacement of FIRN

Section 287.057(3)(a), Florida Statutes, requires the agency to make a written determination that negotiation may be necessary for the state to achieve the best value. The written determination must be approved by the agency head or his or her designee prior to the advertisement of an invitation to negotiate.

The Department provides an educational network for Internet access and Department web data reporting services to the Florida educational community which includes post-secondary, K-12 schools and libraries through the Florida Information Resource Network (FIRN). The tremendous growth of the Internet has escalated bandwidth demands on Florida schools and increased management and operational costs. The Department will be able to add additional E-rate funding to meet the bandwidth demands through outsourcing of this service.

Due to the complexity of the services requested, the scope of work cannot be accurately and completely defined. Moreover, due to the nature of the services, information technology, the services can be provided in several different ways, any of which could be acceptable. Consequently, the Department has determined that an Invitation to Negotiate is necessary to achieve the best value for the state.

Approved:

Larry D. Wood
Larry D. Wood, Ph.D.

11/04/02
Date



STATE OF FLORIDA

STATE TECHNOLOGY OFFICE

4030 Esplanade Way, Suite 180 • Tallahassee, Florida 32399-0950

Telephone: 850.410.4777 • Facsimile: 850.922.5162

<http://www.MyFlorida.com>

MyFlorida.com



ATTACHMENT 3

JEB BUSH
Governor

TONI JENNINGS
Lieutenant Governor

KIMBERLY BAHRAMI
Chief Information Officer

MEMORANDUM

TO: File

FROM: Christie Hutchinson, STO Purchasing Director

RE: Award of Best Value Contract – Hayes E-Government
Resources – Bundled Internet Access Services

DATE: January 17, 2003

The Invitation To Negotiate (ITN) process was used to provide a procurement strategy which was most advantageous to the State. The ITN permitted the State to take into consideration the price and other criteria as needed to obtain the "best value" since the procurement of complex communication technology and related information services involves weighing many interwoven factors.

To determine the most cost-effective implementation, the evaluation established that the single most significant aspect of the award was to be based on a combination of project concept and overall design as they related to cost. Other relevant factors were also evaluated.

As expected, the final scope of work could only be completely defined once the replies were able to be related against their respective costs. Ultimately, STO used knowledge specifically gained during the proposal review/evaluation, to properly weigh the cost effectiveness of the competing replies. Those adjustments are reflected in the contract terms, conditions and timelines.

State Technology Office
BIAS (FIRN)
ITN No. 02-STO-ITN-003
Evaluation

A Goals and Projected Outcomes – 10 Total Points

Evaluation		ITC Deltacom								Hayes								Fijitsu								AT&T													
		Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*						
A Goals and Projected Outcomes – 10 Total Points																																							
1	A well-developed, detailed work plan that meets each of the services as described under Section 1.12, TAB A. The plan should identify 8 service items listed with demonstration of understanding and appropriate business processes. The goals of the technical environment should be identified. Points (0-5)	5	2	1	0	2	1	2	1.6	5	4	4	5	5	4	5	4.4	5	4	4	5	5	5	5	4.6	4	4	4	5	4	4	4	4.0						
2	The proposal should identify and describe how the following services are met: 1. Leveraging of in-place legacy systems; 2. Open systems standards compatibility; and 3. Facilitation of a phased approach to implementation. Points (0-3)	1	1	1	0	1	2	1	1.0	3	3	3	2	2	2	2	2.4	2	2	3	3	2	2	3	2.4	2	2	2	5	2	2	2	2.0						
3	The Proposal should list or provide a schematic diagram of the platform systems, topologies, protocols, and other technical details required in implementing the services. Points (0-2)	2	2	2	1	1	2	1.6	2	2	2	1	1	2	1.6	2	2	2	2	2	2	2	2	2	2.0	2	2	2	2	1	2	1.8							
Totals:									4.2										8.4										9.0										7.8

B Overall Project Concept, Design and Cost – 35 Total Points

1	The proposal defines and details support requirements of 24/7/365 for the NOC, 18/7/365 for Help Desk, e-mail database support and security against hackers, viruses and other threats. Points (0-10)	7	6	6	4	5	8	5	6	10	8	8	9	8	8	7	8	2	8	7	10	9	9	8	9	8	6	9	7	9	10	6	8	9	8	4	
2	The proposal indicates how it would maximize existing SUNCOM infrastructure in the network design. An important part of the migration is to minimize costs; avoiding paying for two networks during the initial phase. Does the proposal defines a strategy to minimize duplicity of service costs before cutting over to the new design and does it identify bundled access components. Points (0-10)	5	6	5	2	4	4	4	2	7	9	7	10	8	5	8	7	0	5	6	9	9	6	5	9	6	8	4	3	7	10	2	5	7	4	2	
3	The proposal defines specific operational reporting plans, including security on the network. Points (0-5)	4	4	5	2	2	2	2	8	4	4	3	2	4	4	4	3	8	5	4	5	4	4	5	4	4	4	5	5	4	5	5	5	5	4	6	
4	The proposal should give evidence of a quality design (through a schematic/diagram of the platforms, systems, topologies, protocols, and other technical details required in implementing the services). Points (0-5)	4	4	4	2	2	1	2	6	4	4	3	4	4	4	3	3	8	4	4	5	5	5	5	5	4	6	5	4	4	5	5	3	4	1	0	
5	The proposal defines a plan to provide email services to teachers and students. Points (0-3)	0	0	0	1	0	0	0	2	3	3	3	3	2	3	3	0	3	2	3	3	2	3	3	3	2	8	3	2	3	3	3	3	3	3	1	0
6	The proposal defines a plan to provide management and end user support for all Internet access including local dial access and 800 number dialup services Points (0-2)	2	1	2	1	1	1	2	4	2	2	2	2	2	1	2	2	0	1	1	2	1	2	2	2	2	6	2	1	2	2	2	2	2	2	2	0
Totals:		16.8							27.8							28.8							26.2														

C Performance & Measurement Methods – 20 Total Points

Performance & Measurement Methodology - 20 Total Points																																	
1	The proposal should have performance indicators outlined with associated methodologies to measure the success of the program as well as meeting deadlines. Points (0-5)	2	2	2	2	3	2	1	1.8	4	4	4	5	5	5	4	4	3	4	3	3	5	4	4	3.6	4	3	2	1	3	4	2.6	
2	The proposal should have specific reporting elements defined that will help the STO/DOE to make future projections of customer capacity utilization needs. Points (0-5)	2	2	3	1	3	2	2	2.2	4	4	4	5	5	4	5	4	5	3	5	3	5	5	5	4.6	4	5	5	4	5	4	4.6	
3	The proposal should have web-access with real-time view of all network components between all sites in support of STO/DOE tracking quality of service to customers. Points (0-5)	5	2	5	1	3	1	1	2.4	4	4	5	5	5	3	5	4	6	3	3	3	3	2	4	5	3.2	5	5	5	3	3	5	4.2
4	The proposal should clearly defined all written reports that will be submitted to the STO/DOE that define the quality of service being delivered and for compliance with service level agreements. Points (0-5)	0	0	1	1	3	1	1	0.8	3	4	4	4	3	4	4	3	8	5	4	3	5	4	4	4	4.2	4	4	5	5	4	5	4.4
Totals:		7.2								17.2								15.6								15.8							

D Quals of Staff & Tech Expertise – 5 Total Pts

1 The proposal should allow an evaluation of the quality of the personnel (should including relevant information and technical expertise of key staff whom will be assigned to the project). Please see section 1.12, Tab B, Personal Points (0-5)

Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
5	4	3	5	3	3	3	3.6	5	4	5	5	5	5	5	4.8	5	4	4	4	3	5	4	4.2
Totals:							3.6								4.8								4.2
																							3.6

E Congruency of Project – 5 Total Points

1 The proposal should identify strategies that will be utilized to identify a phased approach to meeting a migration plan with time lines. Specifically a plan to migrate the network on June 30, 2002 to bundled Internet access on July 1, 2003. Points (0-5)

Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
2	1	3	3	1	2	2	2.0	4	5	5	5	5	5	5	4.8	3	4	3	4	5	5	5	4.0
Totals:							2.0								4.8								4.0

F Collaborative Efforts – 5 Total Points

1 The proposal should have methodologies to identify cooperative partnerships for state-wide network continuity and interoperability. Points (0-5)

Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
2	1	4	3	3	2	2	2.6	4	5	5	4	4	4	4	4.4	3	3	4	4	4	3	3	3.2
Totals:							2.6								4.4								3.2

G Corporate Experience – 10 Total Points

1 The proposal should provide detail descriptions of other projects where design, implementation and managing similar projects for state government. Points (0-5)

2 The proposal should provide detailed information about subcontractors who are part of the proposal & have demonstrated managing similar projects for State government. Points (0-5)

Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
6	6	6	0	4	4	0	5.2	4	4	5	4	3	4	4	4.4	9	6	10	10	10	6	9	8.8
0	0			0	0	n/a	n/a	4	4	1	3	3	5	3	3.8	0	0	0	0	0	0	0	n/a
Note: If subcontractors are not used in the proposal the point value awarded in part 7) a shall be doubled.							5.2								6.8								8.8

H Florida Certified Minority Business - 10 Total Points

1 Minority Contribution, Points (0-10)

a) Minority business is the prime and manages the overall solution

b) Minority business is the prime and does not manage the overall solution but remains the prime point of contact. (7 points)

c) Non-minority business that is the prime and manages the overall solution but has subcontractors that are minorities that contribute more than 50% of the solution (5 points)

d) Non-minority business that is the prime and manages the overall solution but has subcontractors that are minorities that contribute less than 50% of the solution (3 points)

e) Non-minority business that is the prime and manages the overall solution but has no minority subcontractor yet has a quality diversity program (3 points)

f) Non-minority business that is the prime and manages the overall solution but has no minority subcontractors (0 points)

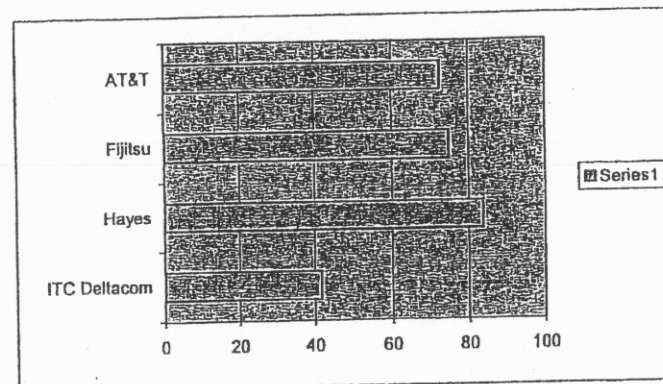
Answer Comments:

Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*	Reviewer #1	Reviewer #2	Reviewer #3	Reviewer #4	Reviewer #5	Reviewer #6	Reviewer #7	Average*
0	0	0	0	0	0	0	0	0	10	10	10	10	10	7	9.4	0	0	0	0	0	0	0	0
Totals:							0								9.4								3.0
																							3.0

*In an effort to keep the average scores as fair as possible, the highest and lowest scores for each question will be omitted. This will leave a remainder of 5 total scores to average.

		Possible Pts	Pts Gained	Total
ITC Dellacom				
A	Goals and Projected Outcomes (10 Total Pts)	10	4.2	41.6
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	16.8	
C	Performance & Measurement Methods (20 Total Pts)	20	7.2	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	3.6	
E	Congruency of Project (5 Total Pts)	5	2	
F	Collaborative Efforts (5 Total Pts)	5	2.6	
G	Corporate Experience (10 Total Pts)	10	5.2	
H	Florida Certified Minority Business (10 Total Pts)	10	0	
		Possible Pts	Pts Gained	Total
Hayes				
A	Goals and Projected Outcomes (10 Total Pts)	10	8.4	83.6
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	27.8	
C	Performance & Measurement Methods (20 Total Pts)	20	17.2	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	4.8	
E	Congruency of Project (5 Total Pts)	5	4.8	
F	Collaborative Efforts (5 Total Pts)	5	4.4	
G	Corporate Experience (10 Total Pts)	10	6.8	
H	Florida Certified Minority Business (10 Total Pts)	10	9.4	
		Possible Pts	Pts Gained	Total
Fijitsu				
A	Goals and Projected Outcomes (10 Total Pts)	10	9	74.8
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	28.8	
C	Performance & Measurement Methods (20 Total Pts)	20	15.6	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	4.2	
E	Congruency of Project (5 Total Pts)	5	3.8	
F	Collaborative Efforts (5 Total Pts)	5	3.2	
G	Corporate Experience (10 Total Pts)	10	7.2	
H	Florida Certified Minority Business (10 Total Pts)	10	3	
		Possible Pts	Pts Gained	Total
AT&T				
A	Goals and Projected Outcomes (10 Total Pts)	10	7.8	72.4
B	Overall Project Concept, Design and Cost (35 Total Pts)	35	26.2	
C	Performance & Measurement Methods (20 Total Pts)	20	15.8	
D	Quals of Staff & Tech Expertise (5 Total Pts)	5	3.6	
E	Congruency of Project (5 Total Pts)	5	4	
F	Collaborative Efforts (5 Total Pts)	5	3.2	
G	Corporate Experience (10 Total Pts)	10	8.8	
H	Florida Certified Minority Business (10 Total Pts)	10	3	

Vendor	Score	Rank
ITC Dellacom	41.6	4
Hayes	83.6	1
Fijitsu	74.8	2
AT&T	72.4	3





State Technology Office

Instructions for Evaluation

ATTACHMENT 5

The Evaluation will cover the following topics:

- PART A, Goals and Projected Outcomes
- PART B, Overall Project Concept, Design and Cost
- PART C, Performance & Measurement Methods
- PART D, Qualifications of Staff & Technical Expertise
- PART E, Congruency of Project
- PART F, Collaborative Efforts
- PART G, Corporate Experience
- PART H, Florida Certified Minority Business

Informational Aid (additional resources that may help assist in the evaluation)

The literature presented is merely for reference in coordination with the evaluation process.

- 1.) The ITN (Invitation to Negotiate) is constructed on behalf of the State Technology Office. It details the Instructions for the proposals, the technical requirements and the general conditions.
- 2.) The Questions & Answers were posted on Thursday, November 21, 2002. It demonstrates the questions submitted in clarifying the offeror's needs to access a best solution format for their proposals.
- 3.) For further details and questions contact Jon at jon.yeaton@myflorida.com or 922-0509.

Evaluation Forms

The evaluation forms consist of 3 pages that contain 8 specific sections that build the assessment criteria. On a final point scale of 100 possible points, each section allocates a portion of possible points to be awarded. Each question denotes in bold the scale of allotted points for that particular inquiry. The lowest number indicating a poor standing and the highest number indicates a strong favorable standing. A total of 7 evaluators will assess the final responsive bids in determining in all fairness the best solution. After dismissing the high and low score for each question, the 5 remaining points will be tallied and averaged for a final question score. The sum of the averages will determine the offeror's final score of the evaluation.

In evaluating the offeror's solutions, each evaluator will be assigned as a specific Reviewer (Reviewer #1 to #7). Please score **ONLY** in the box that indicates the Reviewer number that was assigned. This insures that the scores are easily transferable to a master calculation sheet. In addition, all evaluation worksheets must be signed and dated to verify that as an evaluator, you scored to the best of your ability in all fairness. Please make sure scores are legible. No level of communication about the evaluation can occur among the reviewers during the course of the scoring. This is a safeguard that prevents any type of hesitant dispositions.

Points to consider (helpful points to cover when evaluating questions):

1. It's important to familiarize yourself with the ITN solicitation to better assess the required needs of the state.
2. Please keep in mind, that when scoring each question to remain focus on whether or not that the offeror is providing the best solution to the overall state. Also, address each question as it relates to price, i.e. an offeror may go above and beyond, scoring high technically...but, is the higher cost worth the extra features?
3. As an evaluator, you are considered as experts in this particular field. This helps the process of evaluating not just by analyzing the information presented by the offeror, but to use your past experience, gut feelings and expertise to come to a final conclusion as long as each is justifiable and explainable in your reasoning.

proceed to negotiate with offerors as follows. The highest ranked offeror will be invited to negotiate a contract including a maximum contract price.

If necessary, the STO and DOE shall request revisions to the approach submitted by the top rated finalist until it is satisfied that the deliverable will produce a product that meets the needs. If the negotiations are not successful, the STO will end them and invite the next highest-ranking offeror to negotiate. The process will continue until a contract is negotiated and executed.

- The STO reserves the right to reject any and all responses and negotiation efforts.
- The STO also reserves the right to waive any minor irregularities in an otherwise valid offer to negotiate.
- The ranking will be posted electronically in accordance with Section 1.14 of these instructions. It is the responsibility of all interested parties to check this site for current information.
- If the STO and DOE elect to enter into negotiations, it shall do so starting with the highest-ranked offeror. The STO and DOE reserve the right, however, to negotiate with all qualifying offerors, serially or concurrently, to determine the best-suited solution. The ranking of replies indicates the perceived overall benefits of the proposed solution, but the STO and DOE retain the discretion to negotiate with other qualified offerors as deemed appropriate.
- Before award, the STO and DOE reserve the right to seek clarifications, to request reply revisions, and to request any information deemed necessary for proper evaluation of replies from the replies selected for further consideration. The activities will be closed to the public, but may be recorded; any recordings will be available for public review upon conclusion of the solicitation and award process. The STO and DOE reserve the right to require attendance by particular representatives of the offeror. Any written summary of presentations or demonstrations shall include a list of attendees, a copy of the agenda, and copies of any visuals or handouts, and shall become part of the offeror's reply. Failure to provide requested information may result in rejection of the reply.
- The focus of the negotiations will be on achieving the solution that provides the best value to the State.
- The Contract, if any, shall include the general conditions that are set forth in section 3.0 of the solicitation documents. **THESE CONDITIONS ARE NOT NEGOTIABLE.** Offerors are advised to prepare their replies accordingly. In addition to these terms, the Contract, if any, shall address the following areas, which are subject to negotiation and which do not necessarily describe the entire contents of the Contract:
 - Detailed deliverables
 - Detailed schedule
 - Performance guarantee
 - Price

1.19 Disclosure of Reply Contents: All documentation produced as part of this solicitation shall become the exclusive property of the STO and may not be removed by the offeror or its

employees that support the Network Operations Center, billing and the help desk of FIRN.

The current FIRN network is composed of 5 Internet gateway routers located in Miami, Orlando, Pensacola, Tampa and Tallahassee. There are 10 distribution routers located in Daytona Beach, Ft. Myers, Gainesville, Jacksonville, Miami, Orlando, Panama City, Pensacola, Tampa and Tallahassee. All of the gateway and distribution routers are connected using ATM connections from the State of Florida. Approximately 150 end nodes are connected to this infrastructure using dedicated circuits, frame relay and ATM connections.

Content Filtering and caching servers are located at each gateway node. The content filtering being offered to FIRN customers is under a previously negotiated Contract. There are approximately 50 dial-up hubs supporting 1,183 dial-up lines scattered throughout the State providing daily Internet connectivity to teachers and students around the State. A Network Operations Center is located in Tallahassee where the network is presently being monitored. Additional servers are located in the DOE providing common services to the end users.

- 2.04 Purpose: The purpose of this Invitation to Negotiate is to seek replies that address DOE's need to outsource Internet and related telecommunication service (i.e. direct connection, local dial-up connections, and 800 dial-up connections to the Internet) for all of the public e-rate eligible sites in the State of Florida. DOE is seeking a state-of-the-art, cost-effective solution to keep pace with the growing need of telecommunication and web services for all Florida's public e-rate eligible sites (schools, libraries,...).

This Contract length will be through June 30, 2005. The STO has the option to renew the Contract for two (2) additional one (1) year increments.

DOE envisions a multi-phase project implementation. The initial transition phase will conclude on June 30, 2003 and consist of the following:

- Migrate to the new services and retire existing equipment and circuits; and transfer of FIRN network related staff to outsource provider;
- Maintaining existing level of service during transfer including but not limited to agreed upon Service Level Agreements; and
- Increasing the level of customer satisfaction on all Internet access during transition period.

The second phase to include the following:

- Provide an ongoing design review to ensure and enhance the quality of service to the STO and DOE customers.
- Improve the quality of services addressing any problem areas.